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REMARKS**Separately Presented Amendment to the Specification**

In conjunction with a co-filed Petition Under 37 C.F.R. § 1.78 to allow a priority claim, Applicants have filed a separate amendment for the sole purpose of amending the specification to claim the benefit of U.S. Application Serial No. 09/682,057, which in turn claims priority to U.S. Application Serial No. 09/452,733 and U.S. Provisional Application Serial No. 60/262,571. The Petition Under 37 C.F.R. § 1.78 and the accompanying amendment to the specification, statement that the entire delay was unintentional, and petition fee are being submitted directly to the Office of Petitions [true?].

Claim Amendments

Claims 31 and 32 have each been amended to remove an extraneous period and correct the spelling of "neopentyl".

Response to Finality of Restriction Requirement

Applicants acknowledge that the restriction requirement has been made final. Claims 36-38 have accordingly been canceled without prejudice.

Allowed Claims

Applicants are grateful for the allowance of claims 33 and 34.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-32 and 35 stand rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent Application Publication No. US 2001/0053820 A1 of Yeager et al. ("Yeager"). 1/12/06 Office Action, page 2, penultimate paragraph. Applicants respectfully traverse this rejection because Yeager is not available as a reference under 35 U.S.C. § 102(e).

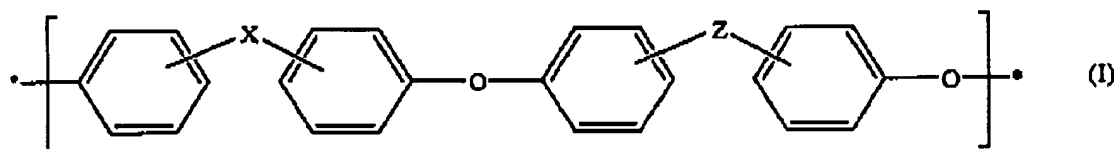
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Yeager is not available as a reference because Applicants are presently claiming priority to the application corresponding to Yeager. Applicants are submitting on the same day as this Amendment a Petition Under 37 C.F.R. § 1.78 to claim priority to U.S. Patent Application Serial No. 09/682,057, which was published as "Yeager". If this Petition is granted, Yeager is not available as a reference because Yeager is not "an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent". 35 U.S.C. § 102(e)(1) (emphasis added). Applicants therefore respectfully request the reconsideration and withdrawal of the rejection of claims 1-32 and 35 under 35 U.S.C. § 102(e) over Yeager.

Claim Rejection Under 35 U.S.C. § 103(a)

Claims 1, 2, 7, 8, 10-12, 15, 20, 21, 23-30, and 35 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,612,425 to Weber et al. ("Weber"). 1/12/06 Office Action, page 4, second paragraph. Applicants respectfully traverse this rejection.

Weber generally describes molding compositions based on polyaryl ethers A, obtainable by reacting polyaryl ethers I with repeating structural elements



or derivatives thereof substituted by C₁-C₆-alkyl, alkoxy, aryl, chlorine or fluorine in the nucleus, where X and Z, independently of one another, are each --SO₂--, --O--, --S--, >C=O, a chemical bond or --CRR'--, R and R' are each hydrogen, C₁-C₆-alkyl or alkoxy, R' is also aryl or fluoro- or chloro-substituted aryl, with the proviso that X and Z are not both --O--, with a reactive compound which, besides a C--C double or triple bond, contains one or more carbonyl, carboxylic acid, carboxylate, acid anhydride, amide, imide, carboxylic ester, amino, hydroxyl, epoxy, oxazoline, urethane, urea, lactam or halobenzyl moieties. Weber abstract. Weber does not teach or suggest molding compositions comprising an alkenyl aromatic monomer.

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Applicants respectfully assert that their claim 1 curable composition is patentable over Weber because Weber does not teach or suggest Applicants' claim 1 alkenyl aromatic monomer. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all limitations of the claim be taught or suggested by the prior art. *See, e.g.,* MPEP 2143.03; *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003); *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974). Applicants' claim 1 curable composition recites the presence of, inter alia, an alkenyl aromatic monomer. Weber does not teach or suggest a molding composition with an alkenyl aromatic monomer. Weber's closest teaching appears to be the incorporation of an impact modifying rubber that itself may be prepared from comonomers including specific alkenyl aromatic monomers. Specifically, Weber teaches the optional incorporation into his molding compositions of an impact modifying rubber B (col. 1, lines 1-4), which may be, inter alia, a core-shell graft rubber, which in turn may be prepared from comonomers including styrene, divinylbenzene, and α -methylstyrene (col. 8, lines 39-57). Incorporating a rubber prepared in part from an alkenyl aromatic monomer is not equivalent to incorporating the alkenyl aromatic monomer itself. Thus, Weber does not teach or suggest molding compositions comprising alkenyl aromatic monomers. Weber thus fails to support a prima facie case of obviousness against Applicants' claim 1.

Given that claims 2, 7, 8, 10-12, 15, 20, 21, 23-30, and 35 each include or further limit the limitations of claim 1, they, too, are patentable over Weber. Applicants therefore respectfully request the reconsideration and withdrawal of the rejection of claims 1, 2, 7, 8, 10-12, 15, 20, 21, 23-30, and 35 under 35 U.S.C. § 103(a) over Weber.


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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131 maintained by Assignee.

Respectfully submitted,

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